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EXAMINER

VAN HANDEL, MICHAEL P

ART UNIT	PAPER NUMBER
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2623

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11/15/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/017,377

Applicant(s)

YASSIN ET AL.

Examiner

Michael Van Handel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/06/2007 has been entered.

### ***Response to Amendment***

1. This action is responsive to an Amendment filed 9/06/2007. Claims 1-30 are pending. Claims 1-4, 8-12, 16, 18 are amended. Claims 19-30 are new.

### ***Response to Arguments***

1. Applicant's arguments regarding claims 1, 2, 11, 12, 16, and 18, filed 9/06/2007, have been fully considered, but they are not persuasive.

Regarding claims 1, 2, 11, 12, 16, and 18, the applicant argues that the combination of Robinson and Zigmond et al. does not disclose or suggest that the bid is based on whether the commercial has been played previously. The examiner respectfully disagrees. Robinson discloses receiving ads and associated bidding agents at an Interactive Internet TV Set-top box via an Internet network (p. 3, paragraph 42). Robinson further discloses that the agents have the intelligence to appropriately bid on a time slot depending on the user's expected interest in the

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advertisement, depending on the information that the agent can glean from the Set-top box's agent environment (p. 3, paragraph 42 & p. 6, paragraph 86). Robinson still further discloses that the information available to the agents by the agent environment includes whether the ad(s) the agent is responsible for has already been viewed; how many times; how long ago; whether it has been acted on such as being clicked on, etc. Robinson also discloses that the agent environment itself can adjust things, so that a bid for a slot is discounted if the user has already clicked or if the ad has been shown recently (p. 6, paragraph 91 & p. 10, paragraph 160). As such, the examiner maintains that the combination of Robinson and Zigmond et al. teaches "wherein the bid is based on whether the commercial has been played previously," as currently claimed.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims **1-8, 10-30** are rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson in view of Zigmond et al.

Referring to claims **1, 2, 11, 12, and 18**, Robinson discloses a method of/system for presenting a commercial in at least one time slot to a viewer, the method comprising the acts of:

- providing one or more commercials to a receiver operatively coupled with a display device (p. 8, paragraph 124), each commercial having an agent associated therewith

- (p. 1, paragraph 9), the agent for each commercial configured to place a bid for the time slot on behalf of the associated commercial, wherein the bid is based on whether the commercial has been played previously (p. 1, paragraphs 9, 16; p. 6, paragraphs 88-91; p. 8, paragraph 118; & p. 10, paragraph 160);
- providing content including the time slot separately from the commercials (the examiner notes that the agents are sent from the advertisers' servers to the agent environment supplier's servers and on to the agent environments running on the users' machines, while television content is provided by a television provider and Internet content may be supplied from many different sources)(p. 1, paragraph 9; p. 3, paragraph 42; & p. 8, paragraph 130);
  - maintaining a profile database to store data related to local viewer preferences and allowing the agent for at least one commercial to access the local viewer preference related data in the profile database, the agent using the accessed local viewer preference related data to determine the bid to be placed for the time slot (p. 1, paragraphs 5, 6, 10 & p. 6, paragraphs 89-91, 94);
  - auctioning the time slot to the one or more agents provided to the receiver (p. 1, paragraphs 11 & p. 3, paragraph 42);
  - selecting at least one selected commercial having the agent which placed a winning bid (p. 3, paragraph 43); and
  - locally to the receiver, combining the content with the select commercial (p. 1, paragraph 11 & p. 3, paragraph 43),

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- displaying the commercial during the time slot, so that the commercials appear to be part of the content (the examiner notes that ads can be displayed as banner ads on a Web page or as full-screen ads on an interactive television)(p. 3, paragraphs 42, 43); and
- storing information related to the commercial having the agent, which placed the winning bid in a vault (p. 2, paragraph 30 & p. 6, paragraph 92).

Robinson further discloses use of the system to display ads on an interactive television by using an Internet Set-top TV box (p. 3, paragraph 42 & p. 9, paragraph 144). Robinsons still further discloses receiving agents from advertisers over an Internet network (p. 1, paragraph 9; p. 8, paragraphs 118, 122). Robinson does not specifically disclose providing commercials and wireless broadcast television programming separately and locally combining the commercials with the broadcast television, so that the commercials appear to be part of the wirelessly broadcast television programming.

Zigmond et al. discloses a system and method for selecting and inserting advertisements into a video programming feed at the household level (Abstract). An Internet capable WebTV box receives a conventional video programming feed via satellite from a content provider 50 and displays the programming to a viewer (col. 7, l. 2-9, 42-49). The WebTV box also receives a plurality of advertisements from an advertisement source. The plurality of advertisements are received separately from the video programming feed via an over-the-air broadcast channel, a cable provider, a consumer satellite service, or any other means for transmitting video data (col. 15, l. 11-16). The WebTV box further receives ad selection rules via a delivery channel independent from the delivery of the advertisement stream and the video programming feed (col.

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12, l. 6-9). An advertiser generates the ad selection rules (col. 11, l. 50-53 & col. 12, l. 15-24). The received advertisements are displayed based on the ad selection rules (col. 4, l. 15-24, 38-40; col. 8, l. 12-37; col. 12, l. 1-24; & col. 18, l. 11-28). Zigmond et al. also discloses that at the appropriate time indicated by a triggering event, the advertisement originally carried on the video programming feed is effectively overwritten with the selected advertisement, and upon termination of the advertisement, the video programming feed is again displayed to the viewer (col. 4, l. 45-52). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the full-screen interactive Internet television advertising system and method of Robinson to include receiving television programming and television ads separately from the Internet network delivering the ad selection software, such as that taught by Zigmond et al. in order to provide each of existing television content providers, advertising content providers, and advertisers with access to an improved system for directing television advertisements to interested viewers at a local level (Zigmond et al. col. 3, l. 61-67), while ensuring the reliable reception of important information (Robinson p. 8, paragraphs 123).

Referring to claims 3 and 13, the combination of Robinson and Zigmond et al. teaches the method/system of claims 2 and 12, respectively, further comprising the acts of allowing the agent for at least one commercial to access the information in the vault, the agent using the accessed information to determine the bid to be placed for the time slot (the examiner notes that in determining the appropriate bid, the agent has access to bidding results)(Robinson p. 6, paragraphs 86, 92).

Referring to claims 4-6 and 14, the combination of Robinson and Zigmond et al. teaches the method of claim 1, further comprising the acts of:

- maintaining a profile database to store data related to local viewer preferences, including demographic information and viewing habit information, and allowing the agent for at least one commercial to access the local viewer preference related data in the profile database, the agent using the accessed local viewer preference related data to determine the bid to be placed for the time slot (Robinson p. 1, paragraphs 5, 6, 10; & p. 6, paragraphs 89-91, 94).

Referring to claim 7, the combination of Robinson and Zigmond et al. teaches the method of claim 1, wherein the bid placed by the agent of at least one commercial is a fixed amount (Robinson p. 10, paragraph 157).

Referring to claim 8, the combination of Robinson and Zigmond et al. teaches the method of claim 1, wherein the winning bid awarded by the awarding act is the bid having the highest monetary value (Robinson p. 1, paragraph 15).

Referring to claims 10 and 15, the combination of Robinson and Zigmond et al. teaches the method/system of claims 1 and 11, respectively, wherein the commercial delivery step includes loading at least one commercial and the agent associated therewith onto the television receiver prior to the time slot (Robinson p. 3, paragraph 46 & p. 8, paragraph 124).

Referring to claim 16, Robinson discloses a system for presenting a commercial in a time slot to a viewer, the system comprising:

- at least one source of one or more commercials and one or more agents, each said commercial having an agent associated therewith (p. 1, paragraph 9 & p. 8, paragraph 124), the agent for each commercial configured to place a bid for the time slot on behalf of the associated commercial, wherein the bid is based on whether the



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commercial has been played previously (p. 1, paragraph 16; p. 6, paragraphs 88-91; & p. 10, paragraph 160);

- a receiver operatively coupled with a display device, said receiver configured to receive each commercial and associated agent (p. 8, paragraph 124); and
- a processor operatively coupled with the receiver, the processor capable of:
  - o executing instructions encoded by the agent associated with each commercial to determine the bid to be placed for the time slot (p. 7, paragraph 118);
  - o auctioning the time slot to the one or more commercials provided to the receiver (p. 1, paragraph 11 & p. 3, paragraph 42);
  - o selecting the commercial having the agent, which placed a winning bid and
  - o displaying the selected commercial on the display device during the time slot (p. 2, paragraph 30 & p. 6, paragraph 92).

Robinson does not specifically disclose that the receiver is configured to receive the commercial and the agent associated therewith simultaneously. Zigmond et al. discloses an ad insertion device 80, which receives ad selection rules and parameters and advertisements. The advertisements to display are chosen based on viewer characteristics and/or rules and parameters set by advertisers (col. 11, l. 31-67; col. 12, l. 1-24, 44-67; col. 13, l. 1-28; & col. 14, l. 35-65). Zigmond et al. further discloses that the advertisement rules and parameters are delivered at the same time as the advertising feed (col. 12, l. 25-32). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the system for selecting advertisements for display disclosed by Robinson to include delivering the criteria for selecting

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advertisements at the same time as delivering the advertising feed, such as that taught by Zigmond et al. in order to easily correlate data with its associated parameters.

Referring to claim 17, the combination of Robinson and Zigmond et al. teaches the system of claim 11, wherein the receiver is configured to receive the commercial and agent associated therewith separately (Robinson Fig. 4).

Referring to claims 19, 21, 23, 25, 27, and 29, the combination of Robinson and Zigmond et al. teaches the method/system of claims 1, 2, 11, 12, 16, and 18, respectively, further comprising the act of updating a profile database to reflect that the commercial was played (Robinson p. 6, paragraph 91 & p. 10, paragraph 160).

Referring to claims 20, 22, 24, 26, 28, and 30, the combination of Robinson and Zigmond et al. teaches the method/system of claims 1, 2, 11, 12, 16, and 18. Robinson further discloses receiving ads and associated bidding agents at an Interactive Internet TV Set-top box via an Internet network. Robinson stresses the importance of this Internet network, since the most important information that the user's machine needs to receive from the outside world is the agents themselves (p. 8, paragraph 123). Robinson is silent as to receiving the commercials via a coupling separate from the Internet network coupling. Zigmond et al. discloses ad selection rule software created by advertisers for selecting appropriate advertisements to be displayed to the viewer during content time slots (col. 8, l. 33-54 & col. 11, l. 31-35). Zigmond et al. also discloses advertisements stored at an advertising source, and content stored at a programming source (Fig. 4). Zigmond et al. further discloses receiving the content, advertisements, and advertisement selection rules over separate networks and notes that the ad selection rules may be downloaded from the World Wide Web (col. 12, l. 3-9 & Fig. 4). Zigmond et al. still further

discloses receiving the advertisements over an over-the-air broadcast channel, a cable provider, a consumer satellite service, etc. (col. 15, l. 1-16). The examiner notes that the Internet is a less lossy coupling than a broadcast transmitter. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the full-screen interactive Internet television advertising system and method of Robinson to include receiving television programming and television ads separately from the Internet network delivering the ad selection software, such as that taught by Zigmond et al. in order to provide each of existing television content providers, advertising content providers, and advertisers with access to an improved system for directing television advertisements to interested viewers at a local level (Zigmond et al. col. 3, l. 61-67), while ensuring the reliable reception of important information (Robinson p. 8, paragraph 123).

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson in view of Zigmond et al. and further in view of Vetter et al.

Referring to claim 9, the combination of Robinson and Zigmond et al. teaches the method of claim 1. Robinson further discloses the use of the Vickrey auction and notes that there are many other approaches to auctioning off a resource, which are well known to practitioners of ordinary skill in the arts of economics and game theory, that could be used with the disclosed approach (p. 5-6, paragraphs 83-84). The combination of Robinson and Zigmond et al. does not teach a method, wherein the winning bid awarded by the awarding act is determined by setting a desired monetary value, and then reducing the desired monetary value until the agent of at least one commercial places a bid at least equal to the desired monetary value. Vetter et al. auctioning

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off resources electronically by automating auctions through the use of intelligent agents (Abstract & Introduction). The agents are responsible for the bidding process of the auction (3.2 Agents and Auctions). Vetter et al. also discloses using a Dutch auction to auction off the resources. With this type of auction, bidding starts at an extremely high price and is progressively lowered until a buyer claims an item by calling the price (3.1 Auction Types; 5. The CASBA Auction Module; & 5.3 Bidding and Bid Processing). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the Vickrey auctioning method of Robinson in the combination of Robinson and Zigmond et al. to use the Dutch auction approach to auctioning off resources, such as that taught by Vetter et al. in order to auction goods quickly.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571-272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MVH



CHRIS KELLEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600